

IOWA BOARD OF EDUCATIONAL EXAMINERS

IN THE MATTER OF:

Frederick D. Bindner,

Respondent.

)
) **Case No. 14-81**
)
) **License No. 337902**
)
) **FINAL ORDER**
)

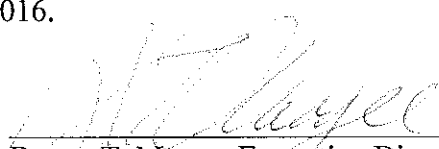
1. Respondent holds a STANDARD LICENSE (FOLDER # 337902) with the following endorsements: 5-12 Driver and Safety Education; and 5-12 Physical Education. Respondent's license is suspended and Respondent became eligible for reinstatement on August 31, 2015. Respondent's license also expired on August 31, 2015. Respondent also holds an expired Administrative Decision license with the same endorsements.
2. On July 8, 2014, the Board of Educational Examiners received a complaint against Respondent alleging various violations. On October 9, 2015, the Board found probable cause to proceed to hearing based upon the facts set forth herein and delineated in further detail within the complaint and investigation file compiled by the Board.
3. The Board charged Respondent with fraud as defined by 282 Iowa Administrative Code rule 25.2, in violation of 282 Iowa Administrative Code rule 25.3(1)(a); deliberately suppressing subject matter for which the educator bears responsibility, in violation of 282 Iowa Administrative Code rule 25.3(6)(b); with failing to make reasonable effort to protect the health and safety of the student or creating conditions harmful to student learning, in violation of 282 Iowa Administrative Code rule 25.3(6)(c); with performing services beyond the authorized scope of practice for which the individual is licensed or prepared or performing services without holding a valid license, in violation of 282 Iowa Administrative Code rule 25.3(6)(o); and, with failing to comply with a Board order, in violation of 282 Iowa Administrative Code rule 25.3(7)(d).
4. On June 22, 2012, the Board of Educational Examiners issued an Order Regarding Proposed Decision in case number 11-61, in which it determined Respondent had violated certain ethical standards and ordered Respondent's teaching certificate be suspended for a period of two years. On July 18, 2012, Respondent filed a Petition for Judicial Review in the Iowa District Court for Henry County. The Board stayed the June 22, 2012 Order pending judicial review.

5. On April 11, 2014, Respondent and the Board executed a Settlement Agreement in which Respondent consented to an immediate suspension of his license to run until the expiration of his standard license on August 31, 2015. The Settlement Agreement Contemplated that on August 31, 2015, Respondent's teaching certificate could be reinstated upon completion of the normal requirements for renewal of his Standard License in effect under the Board's rules at that time.
6. In June 2014, the parent of an Open Road Driving School student discovered Respondent was teaching driver's education classes for Open Road, both in the classroom and behind the wheel.
7. The parent questioned Respondent about his identity, and Respondent gave the name of a former Open Road employee who also holds a Board-issued practitioner's license.
8. Respondent also obtained driver's education completion forms from the Iowa Department of Transportation by claiming to be a driver's education instructor during the time he was suspended.
9. Respondent also provided behind-the-wheel instruction to students in vehicles that displayed prior salvage title histories. Some of these vehicles were rebuilt after accidents or impacts.
10. Pursuant to Board rule, a practitioner may voluntarily surrender the practitioner's license if the practitioner waives the right to hearing before the Board and notifies the Board of the intent to accept a permanent revocation of the practitioner's license. Upon receipt of a voluntary surrender, "[t]he Board may issue an order permanently revoking the practitioner license" 282 I.A.C. 11.4(6).
11. On May 17, 2016, the Respondent filed a Surrender of Practitioner License and Waiver of Formal Hearing form. The voluntary surrender was presented to and accepted by the Board at a meeting held on June 17, 2016.

ORDER

THEREFORE, the Board acknowledges the Respondent's voluntary surrender of his practitioner license and incorporates his action into this Order by attaching a copy of the surrender to this Order. In accordance with this filing, all licenses issued by the Board to the Respondent and his privilege to practice in Iowa are **PERMANENTLY REVOKED** with no possibility of reinstatement.

Dated this 17th day of June, 2016.



Duane T. Magee, Executive Director
On behalf of the Board

Copies to:

Frederick D. Bindner (restricted certified mail and first-class mail)
RESPONDENT

Joseph G. Bertroche, Jr. (electronic mail)
ATTORNEY FOR RESPONDENT

Julie Bussanmas (electronic mail)
Assistant Attorney General
ATTORNEY FOR STATE

STATE of IOWA
BOARD OF EDUCATIONAL EXAMINERS
Grimes State Office Building
Des Moines, IA 50319-0147

MAY 17 2016

SURRENDER OF PRACTITIONER LICENSE
AND
WAIVER OF FORMAL HEARING
Before the
IOWA BOARD OF EDUCATIONAL EXAMINERS

I, FREDERICK D. BINDNER (BoEE Folder No. 337902), swear and affirm under oath:

that I am the Respondent in a case currently before the Iowa Board of Educational Examiners;

that I currently hold a valid or expired Iowa practitioner's license;

that I have been informed of and understand the nature of the proceedings before the Board and have received a copy of the complaint filed against me and the applicable rules (282 Iowa Administrative Code, Chapters 11, 25, and 26);

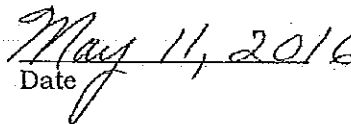
that I am aware of the Board's legal authority to exonerate, warn, or reprimand me as a licensed individual, following a Board investigation into allegations of conduct violative of Board criteria, and of the Board's authority to suspend or revoke my license for conduct violative of Board criteria;

that I understand that I have an opportunity to be heard and to contest the allegations against me in formal hearing before the Board; and that by waiving the formal hearing, I waive my right to challenge the allegations against me in the complaint, and as a consequence, my privilege to teach, administer, or coach in Iowa will be permanently revoked with no possibility of reinstatement;

that I understand that the Board will notify the NASDTEC (National Association of State Directors of Teacher Education & Certification) National Clearinghouse that my license has been revoked and that other state teacher licensing boards will have access to this information.

HAVING ACKNOWLEDGED MY RIGHTS AS OUTLINED ABOVE, I hereby formally waive my right to a hearing before the Board and request that my license to teach, administer, or coach in Iowa be revoked. I affirm that my decision is made voluntarily and knowingly.


Practitioner signature


Date

**BEFORE THE BOARD OF EDUCATIONAL EXAMINERS
OF THE STATE OF IOWA**

In the matter of)	Case No. 14-81
)	Folder No. 337902
FREDERICK D. BINDNER,)	
)	NOTICE OF HEARING
Respondent.)	AND STATEMENT OF CHARGES

YOU ARE HEREBY NOTIFIED that the Iowa Board of Educational Examiners, exercising the jurisdiction conferred by Iowa Code chapters 17A and 272, has found probable cause of a violation of Board rules and ordered this matter scheduled for hearing.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing will be held on Tuesday, May 24, 2016, before Administrative Law Judge Margaret LaMarche, acting on behalf of the Iowa Board of Educational Examiners. The hearing shall begin at 9:00 a.m. in Department of Inspections and Appeals, Wallace State Office Bldg, Third Floor, 502 E. 9th Street (East 9th and Grand Avenue), Des Moines, Iowa. You should report to the third floor Iowa Department of Inspections and Appeals' (DIA) receptionist prior to 9:00 a.m. to obtain the room assignment.

2. Answer. Within twenty (20) days of the date of service of this Notice of Hearing, you are required to file an Answer specifically admitting, denying, or otherwise responding to the allegations included within the Factual Allegations. In that Answer, you should also state whether you will require an adjustment of the date and time of the hearing. A copy of the Answer shall be provided by the Respondent to the Assistant Attorney General identified below.

3. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 282 Iowa Administrative Code (IAC) chapter 11. At hearing, you may appear personally or be represented by an attorney, at your own expense. You will be allowed the opportunity to respond to the charges against you. Each party will be allowed to testify, examine and cross-examine witnesses, and present documentary evidence. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence. If you need to request an alternative time or date for hearing, you must comply with the requirements of 282 IAC rule 11.19.

If either party wishes to present telephonic testimony or to participate in the hearing by telephone, arrangements must be made at least ten (10) days in advance of the hearing date by filing a written request with the presiding Administrative Law Judge, Department of Inspections and Appeals, Wallace State Office Building, Des Moines, Iowa 50319, or by faxing a written request to (515) 281-4477. A copy of the

request for telephonic testimony must be served on the Board and all parties. Any resistance to the request for telephone testimony must be filed within five (5) days of service of the notice.

4. Pre-hearing conference. Either party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board rules regarding pre-hearing conferences are found in 282 Iowa Administrative Code rule 11.18.

5. Prosecution. The office of the Attorney General is responsible for prosecuting and representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address:

Renner K. Walker
Assistant Attorney General
Iowa Department of Justice
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319
Telephone (515) 281-7175

6. Communications. You may not contact Board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing or the pending charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve on all parties in the case. You should direct any questions about this proceeding to Duane T. Magee, the Board's Executive Director, at (515) 281-5849 or to Assistant Attorney General Walker at (515) 281-7175.

B. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

7. Respondent is charged with fraud as defined by 282 Iowa Administrative Code rule 25.2, in violation of 282 Iowa Administrative Code rule 25.3(1)(a).

Count II

8. Respondent is charged with deliberately suppressing subject matter for which the educator bears responsibility, in violation of 282 Iowa Administrative Code rule 25.3(6)(b).

Count III

9. Respondent is charged with failing to make reasonable effort to protect the health and safety of the student or creating conditions harmful to student learning, in violation of 282 Iowa Administrative Code rule 25.3(6)(c).

Count IV

10. Respondent is charged with performing services beyond the authorized scope of practice for which the individual is licensed or prepared or performing services without holding a valid license, in violation of 282 Iowa Administrative Code rule 25.3(6)(o).

Count V

11. Respondent is charged with failing to comply with a Board order, in violation of 282 Iowa Administrative Code rule 25.3(7)(d).

C. JURISDICTION AND LEGAL AUTHORITY

12. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A and 272. If any of the allegations against you are proven at hearing, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A and 272, and 282 Iowa Administrative Code chapter 11.

D. FACTUAL CIRCUMSTANCES

13. Respondent holds a STANDARD LICENSE (FOLDER # 337902) with the following endorsements: 5-12 Driver and Safety Education; and 5-12 Physical Education. Respondent's license is suspended and Respondent became eligible for reinstatement on August 31, 2015. Respondent's license also expired on August 31, 2015. Respondent also holds an expired Administrative Decision license with the same endorsements.

14. On July 8, 2014, the Board of Educational Examiners received a complaint against Respondent alleging various violations. On October 9, 2015, the Board found probable cause to proceed to hearing based upon the facts set forth herein and delineated in further detail within the complaint and investigation file compiled by the Board.

15. On June 22, 2012, the Board of Educational Examiners issued an Order Regarding Proposed Decision in case number 11-61, in which it determined Respondent had violated certain ethical standards and ordered Respondent's teaching certificate be suspended for a period of two years. On July 18, 2012, Respondent filed a Petition for Judicial Review in the Iowa District Court for Henry County. The Board stayed the June 22, 2012 Order pending judicial review.

16. On April 11, 2014, Respondent and the Board executed a Settlement Agreement in which Respondent consented to an immediate suspension of his license to run until the expiration of his standard license on August 31, 2015. The Settlement Agreement Contemplated that on August 31, 2015, Respondent's teaching certificate could be reinstated upon completion of the normal requirements for renewal of his Standard License in effect under the Board's rules at that time.

17. In June 2014, the parent of an Open Road Driving School student discovered Respondent was teaching driver's education classes for Open Road, both in classroom and behind the wheel.

18. The parent questioned Respondent about his identity, and Respondent gave the name of a former Open Road employee who also holds a Board-issued practitioner's license.

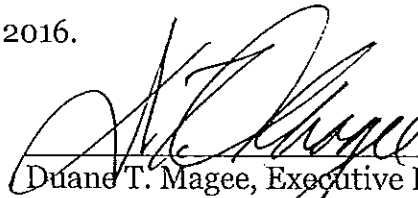
19. Respondent also obtained driver's education completion forms from the Iowa Department of Transportation by claiming to be a driver's education instructor during the time he was suspended.

20. Respondent also provided behind-the-wheel instruction to students in vehicles that displayed prior salvage title histories. Some of these vehicles were rebuilt after accidents or impacts.

E. SETTLEMENT

21. This matter may be resolved by surrender of your license or an agreement to accept a lesser sanction. The procedural rules governing the Board's settlement process are found at 282 Iowa Administrative Code rule 11.4(6). If you are interested in pursuing settlement of this matter, please contact the Assistant Attorney General identified in Section A, above.

Dated this 23rd day of February, 2016.


Duane T. Magee, Executive Director
Iowa Board of Educational Examiners

Copies to:

Frederick D. Bindner (first-class mail and restricted certified mail)
RESPONDENT

Joseph G. Bertroche Jr. (electronic mail)
ATTORNEY FOR RESPONDENT

Renner K. Walker (electronic mail)
ATTORNEY FOR STATE